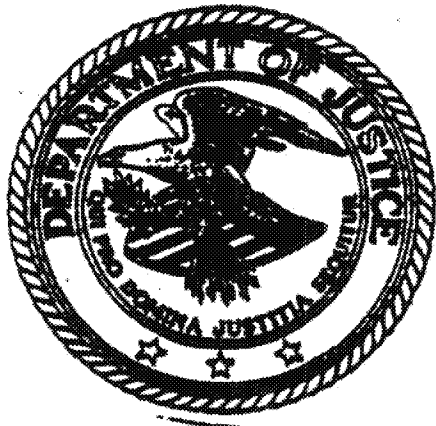


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UNITED STATES DEPARTMENT OF JUSTICE



Environmental Enforcement Section
1425 New York Avenue, N.W.
Washington, D.C. 20005

Telefax No. (202) 616-6583

TO: Charles Goetz, Kirk Tucker, Bill Smith

FROM: David Sheetz, DOJ

DATE: 4/2/93

NUMBER OF PAGES (including cover sheet): 5

DESTINATION'S FAX #: (412) 578-8134; (412) 442-4267;

(412) 577-3235



SIERRA CLUB

THE ALLEGHENY GROUP

Re: Second Consent Decree-Civil Action Nos. 79-709,91-329
Comments to disclose facts or consider- Address
ations on the inadequateness of the
Second Consent Decree

reply to: Shirley Virostek
1444 Washington Blvd.
Port Vue Pa. 15133
412-6780056

Assistant Attorney General
Environment and Natural Resources
Division, Department of Justice
Washington DC 20530
DO Ref. Nos. 90-5-2-3-1034B and 1034C

March 26, 1993

The Sierra Club, Allegheny Group has a number of requested changes to be made to the proposed Second Consent Decree-United States v. USX Corp., C.A. No. 79-709.

The Allegheny Group has a membership of about 4000. It's area of organization comprises ten (10) counties in South Western Pennsylvania.

Because of the very high percent of residents over sixty five (65), a group most sensitive to air pollution, we are particularly concerned about having the cleanest air possible in Allegheny County.

One method of controlling emissions from a recalcitrant company is the carrot and stick approach. This Consent Decree has, indeed, provided the carrot. The Sierra Club believes that the stick is not strong enough to get USX's attention.

The largest by-product recovery coke oven facility in the world, releasing known health threatening carcinogens to the atmosphere for over a three (3) year period, has been granted a nominal fine! This without question is adding insult to injury!

"Is this decree reflective of the environmental enforcement policy of President Clinton's administration?"

The E.P.A. Standards Development Division, presently establishing National Emission Standards for Hazardous Air Pollutants (NESHAP's) for Coke Ovens, considers raw coke-oven gas ventings so serious that the regulation is requiring igniters on all by-product recovery coke-oven battery bleeder stacks. The E.P.A. quotes the thirteen (13) ventings at Clairton Coke (USX, USS) as the justification for the proposal. They also state "emission estimates based on the composition of the gas, the frequency of the bypass events and their duration, indicate that the average annual emission

The Allegheny Group of the Pennsylvania Chapter
Box 8241, Pittsburgh, PA 15217

RECYCLED PAPER

DEPARTMENT OF JUSTICE

LANDS DIVISION
ENFORCEMENT SECTION

from by-passing coke-oven gas has the potential to exceed the emissions from doors, topside port lids, offtake systems and charging. (I am sure you have documentation of the quantity of BSO, H₂S, benzene, methane and other toxics emitted during these episodes.)

Thirteen reoccurrences of the same outrageous violation was resolved only by United State Steel accessing monies owed in a previous modified consent decree! The Plaintiffs made the concession enabling USS to purchase igniters at reduced cost. Would they (USS) have installed this control equipment without this incentive? By-product recovery coke batteries across the nation will be required to install igniters. The penalty money offset to USS for this installation should be returned to the Clean Air Fund!

We believe the fine of one million eight hundred thousand dollars (\$1,800,000.00) is insignificant compared to the seriousness of the violation! Non-compliance of consent decrees by United States Steel has been on-going since their inception.

Even the State of Pennsylvania is including compliance reviews in considering permit issuance to determine if a company has shown a lack of intention to comply with the Air Pollution Control Act.

USX (their parent company) has an environmental record which places them as one of the ten (10) worst polluters in the nation.

The Sierra Club has researched agreements pertaining to coke facility violations. Here are some of the results:

A. Inland Steel (1990 lawsuit-Region 5 E.P.A.) a fine of \$3.5 million dollars and they must spend \$51 million on clean up and plant improvement. Accused of exceeding wastewater discharge levels and pumping too many pollutants into the air from a boiler, coke ovens, and a steel making shop. They have (5) operating batteries.

B. USX, USS Works, Gary Indiana (Region 5 E.P.A.) fined 34 million in penalties and clean up costs and 1.6 million more for violating the Clean Air Act. They have (5) operating coke batteries.

C. Bethlehem Steel, Burns Harbor Indiana (Partial Consent Decree, Region 5 E.P.A.) Alleged violations of the Clean Air Act. A civil penalty of six hundred thousand dollars (\$600,000.00) pertaining to coke oven stacks and doors. They have (2) operating batteries.

The tardiness of the U.S. Justice Department in resolving an action dating back to the year 1987 has resulted in a "Company" argument that they have made needed improvements and that the penalty amount should be reduced to reflect that. Provisions of the Act require owners or operators to operate a source in accordance with good air pollution control practices for minimizing emissions and for procedures for correcting malfunctions as soon as possible!

The Occupational Safety and Health Administration (OSHA) increases fines per repeated violations of the same nature and identical location.

Another area of concern is the wording changes in this decree which supercedes former decrees. The finely crafted provisions in the Second Modification of Amended Consent Decree, lodged with the court on May 29, 1991, page 6 (5) and page 7 reflect precise language for report certification and responsible corporate official. The Sierra Club of Allegheny County would like to see this wording reinstated in the proposed consent decree.

Stipulated penalties in consent decrees usually last the life of the document. This "Consent Decree" has stipulated penalties of limited life, July 1, 1992 through January 1, 1993. (Already passed) Given the past history of continued violations at this USX, USS plant, the Sierra Club, Allegheny Group, believes that the stipulated penalties section should continue for at least five years. This stick would have the effect of ensuring continuing compliance and prevent back sliding. The benefit of this inclusion would allay the community fear of exposure.

Finally, the Sierra Club, Allegheny Group, is confused

by the term on page three (3).

""granted to Group Against Smog and Pollution (GASP)
permissive intervention.""

Somewhere,perhaps in I.DEFINITIONS,you could define what
the term permissive intervention means. Through out this Consent
Decree the term is used,and the Sierra Club does not know what
it means.

We will be waiting for your response. Thank you for your
attention.

Yours truly,

A handwritten signature in cursive script that reads "Shirley C. Virostek".

Shirley Campbell Virostek
Air Toxic Subcommittee Chair
1444 Washington Blvd.Port Vue Pa.15133
412-6780056

Marilyn Skolnick
Clean Air Subcommittee Chair

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

SUBJECT: USX Consent Decree - Sierra Club
comments
Confidential Attorney-Client
Communication

DATE: 4-5-93

FROM: Bill Smith

TO: Dennis Lohman (3AT23)
Michael Ioff (3AT23)

Attached are comments on the USX consent decree from the Sierra Club, Allegheny Group. As you can see, this commenter disagrees with the amount of the proposed fine, the report certification provision, and the 6 month stipulated penalty provision. Sierra Club also wants a definition of "permissive intervention" included in the decree.

I don't believe this commenter raises issues that necessitate the withdrawal the proposed decree, as the amount of the fine was properly calculated in accordance with our civil penalty policy, the certification provision is legally sufficient, and the term of the stipulated penalties reflects the fact that the facility has essentially been brought into compliance. However, the government will formally address these comments in our motion to lodge the decree. If you have any questions or concerns about these comments, please let me know.

cc: Judy Katz

WATER MASS FLOW (gal/ton coal)

①	Make-up	115 - 190
②	Quench	380 - 760
③	Coke	20
④	Return	270 - 570
⑤	Up Stack	75 - 150
⑥	Other Losses	20

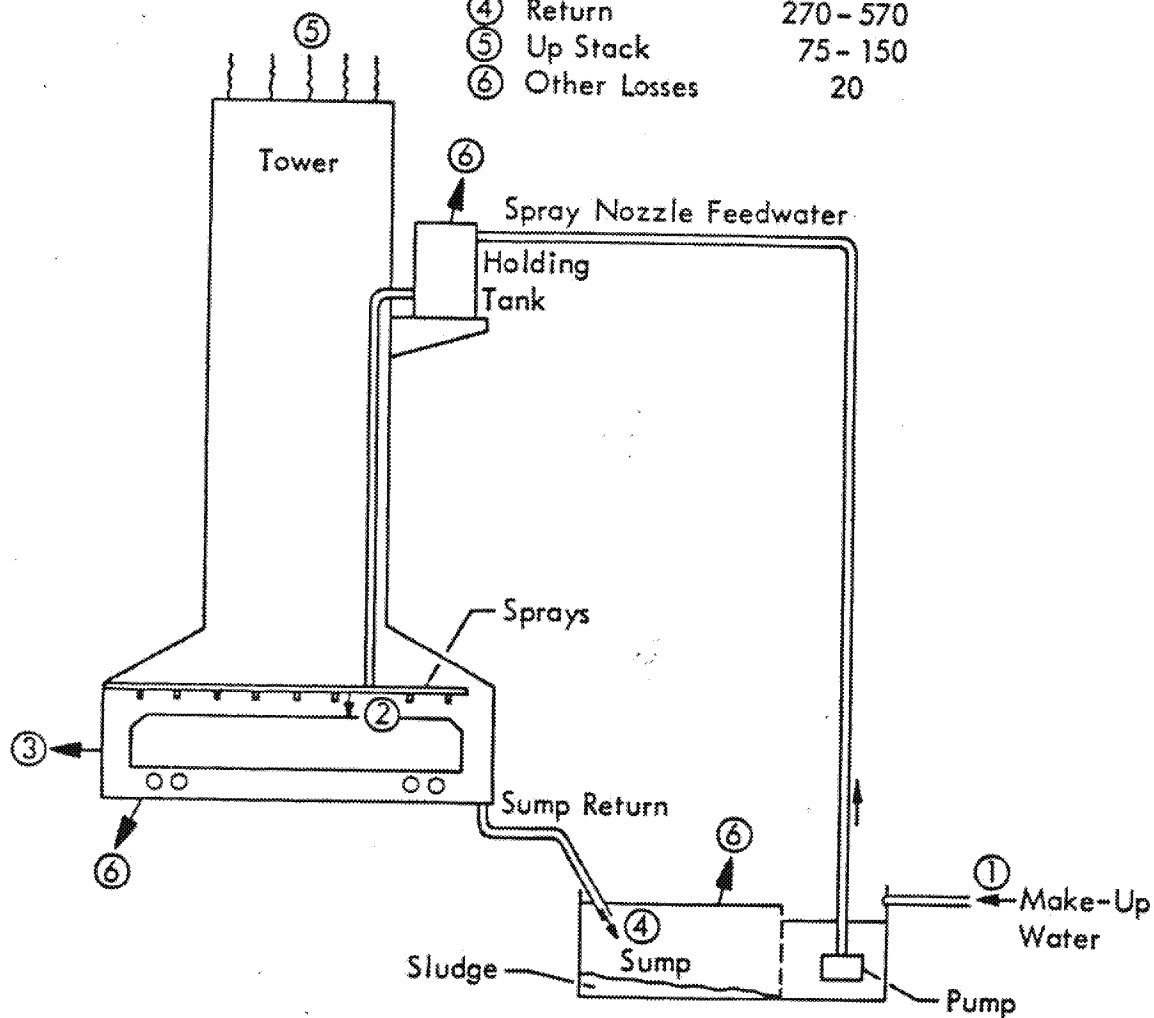


Figure 1. Schematic diagram of a wet quench tower.